

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT**

In re:

Chapter 13

Jeffrey David Hurley and Lyn Marie Hurley,
Debtors.

Case No.: 10-35686-dof
The Honorable Daniel S. Opperman

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MOTION TO DISMISS

Donald K. Currie Revocable Trust u/a/d 07/28/1998 (“Currie”), by and through its attorneys, Howard & Howard Attorneys PLLC, moves this Court for an order dismissing Debtors’ bankruptcy case. In support of its Motion, Currie states as follows:

1. On March 14, 2011, Currie served Debtors with its First Request to Produce Documents (the “Document Requests”). Currie’s Document Requests seek information related to (a) the calculation of the secured portion of Currie’s claim, and (b) the determination of “disposable income” available to fund the plan. These issues were raised by Currie in its Objection to Confirmation [Docket No. 22]. These issues were either denied or side-stepped by the Debtors in their Response [Docket No. 38].

2. Debtors’ responses to Currie’s Document Requests were due on April 13, 2011.

3. Despite repeated attempts to communicate with Debtors’ counsel and resolve the parties’ discovery issues, Debtors have not cooperated with Currie’s efforts and have failed and refused to provide written responses or produce documents.

4. Due to Debtors’ failure to provide discovery, Currie filed its Motion to Compel Discovery Response.

5. On May 9, 2011, because Currie could not effectively proceed with respect to a confirmation hearing unless it has an opportunity to review and analyze the documents requested

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in its Discovery Requests, Currie also filed its Motion to Adjourn Confirmation Hearing seeking an adjournment of the May 17, 2011 confirmation hearing. [Docket No. 64].

6. The parties resolved both the Motion to Compel Discovery Responses and Motion to Adjourn Confirmation Hearing by entering into a stipulated order, which was entered by this Court on May 21, 2011 (the “Order”). [Docket No. 68].

7. The Order adjourned the confirmation hearing to July 19, 2011 and also required Debtors to **provide responses to Currie’s Discovery Requests on or before May 27, 2011** in order to avoid dismissal of the bankruptcy case.

8. The Order provided in pertinent part: “if Debtors do not provide responses to the Discovery Requests on or before May 27, 2011, this case shall be dismissed upon the Order of the Court without further notice or hearing.”

9. Debtor failed to provide any discovery responses to Currie on or before May 27, 2011.

10. As such, Currie respectfully requests that this Court dismiss Debtors’ bankruptcy case for failing to comply with this Court’s Order and award Currie any additional relief this Court deems just and proper.

WHEREFORE, Currie respectfully requests that this Court enter an order dismissing Debtor’s bankruptcy case and award Currie any additional relief this Court deems just and proper.



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Dated: June 1 , 2011

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Respectfully submitted,

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